

II. Remarks

A. Status of the Claims

Claims 75-78 are pending. Claims 1-61 were previously cancelled. Claims 62-74 have been cancelled herein without prejudice. New claims 75-78 have been added to conform to Group V of the Restriction Requirement of March 19, 2002, in the parent application, U.S. Serial No. 09/781,081, now U.S. Patent No. 6,696,088. Support for new claim 75 is found, e.g., at page 5, lines 8-12; pages 50-52, examples 1-3; page 67, example 20; pages 71-72, examples 23 and 24; and page 75, example 27A. Support for new claim 76 is found, e.g., at page 50, example 1; page 67, example 20; and page 75, example 27A. Support for new claim 77 is found, e.g., at page 52, example 3; and pages 71-72, examples 23 and 24. Support for new claim 78 is found, e.g., at page 5, lines 8-12; page 24, lines 10-12; pages 50-52, examples 1-3; page 67, example 20; pages 71-72, examples 23 and 24; and page 75, example 27A. Applicants respectfully submitted that no new matter has been added by virtue of this amendment.

B. Double Patenting Rejections

In the Office Action, the Examiner rejected claims 62-74 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over:

- claims 1-61 of co-pending application no. 10/689,866;
- claims 62-73 of co-pending application no. 10/700,861; and
- claims 62-67 of co-pending application no. 10/700,893.

Applicants note that claims 62-74 have been cancelled herein without prejudice. However, Applicants will address the obviousness-type double patenting rejections with respect to newly added claims 75-78:

Applicants respectfully submit that claims 75-78 of the present application; claims 1-61 of co-pending application no. 10/689,866; claims 62-73 of co-pending application no. 10/700,861; and claims 62-67 of co-pending application no. 10/700,893 were introduced in the parent application, U.S. Application Serial No. 09/781,081, now U.S. Patent No. 6,696,088, and were subject to a Restriction Requirement issued March 19, 2002.

In the Restriction Requirement, claims 75-78 of the present application correspond to claims 96-99 of the parent application and were categorized as Group V; claims 1-59 and 61¹ of co-pending application no. 10/689,866 correspond with claims 1-59 and 61 of the parent application and were categorized as Group I; claims 62-73 of co-pending application no. 10/700,861 correspond with claims 65-68, 83-89 and 95 of the parent application and were categorized as Group III; and claims 62-67 of co-pending application no. 10/700,893 correspond with claims 69-74 of the parent application and were categorized as Group IV. A copy of the March 19, 2002 Restriction Requirement is enclosed as Exhibit A.

¹ Claim 60 of co-pending application no. 10/689,866 has been cancelled by virtue of a concurrently filed paper.

The Examiner is respectfully reminded that "[w]here restriction is required by the Office double patenting cannot be held". MPEP 8th Ed. 4th Rev. §806. As discussed above, the Examiner in the parent application indicated that the present claims (Group V of the Restriction Requirement) were patentably distinct over claims 1-59 and 61 of co-pending application no. 10/689,866 (Group I of the Restriction Requirement), claims 62-73 of co-pending application no. 10/700,861 (Group III of the Restriction Requirement); and claims 62-67 of co-pending application no. 10/700,893 (Group IV of the Restriction Requirement). Therefore, Applicants respectfully submit that the double patenting rejection of the present claims over the claims of the cited co-pending applications is improper.

Accordingly, Applicants respectfully request that the Examiner reconsider the provisional obviousness-type double patenting rejection as applied to the newly added claims.

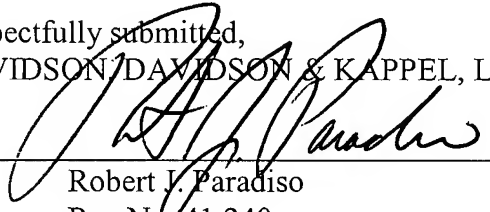
III. Conclusion

It is respectfully submitted that in view of the arguments presented, the claims are in condition for allowance. An early and favorable action on the merits is earnestly solicited.

According to currently recommended Patent Office policy the Examiner is requested to contact the undersigned in the event that a telephonic interview will advance the prosecution of this application.

Respectfully submitted,
DAVIDSON/DAVIDSON & KAPPEL, LLC

By



Robert J. Paradiso
Reg No. 41,240

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940